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07 SEP 13 AM 10:48  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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Attorneys for Defendants  
Cornell Corrections of California, Inc., erroneously  
served and sued herein as Cornell Corporation, Inc.,  
Maria Richard, Mike Reed, Dora Ford, Judith  
Henderson, Melody Daniel, and Rose Hughes

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT COURT OF CALIFORNIA

JORDAN ROSENBERG,

Plaintiff,

v.

CORNELL CORPORATION, INC., AND  
ASSOCIATED COMPANIES, MARIA  
RICHARD, DIRECTOR, MIKE REED,  
DIRECTOR, DORA FORD, CASE  
MANAGER, JUDITH HENDERSON, JOB  
DEVELOPER, MELODY DANIEL, JOB  
DEVELOPER, ROSE HUGHES, STAFF,  
DOES 1-100,

Defendants.

CASE NO. C-07-4690-PJH

**DEFENDANTS' ANSWER TO  
PLAINTIFF'S FIRST AMENDED  
COMPLAINT AND  
DEMAND FOR JURY**

COME NOW defendants Cornell Corrections of California, Inc., erroneously served and  
sued herein as Cornell Corporation, Inc., Maria Richard, Mike Reed, Dora Ford, Judith Henderson,  
Melody Daniel, and Rose Hughes ("defendants"), and in answer to the Complaint (First Amended)  
For Civil Rights Violations ("complaint") filed by plaintiff Jordan Rosenberg ("plaintiff") in the  
above-entitled action, allege as follows:

1. Answering the allegation set forth in the first paragraph on page 2, line 1,  
defendants admit said allegation.



**SECOND**

10. Answering the allegations set forth in the third and fourth paragraphs on page 3, lines 14-18, and the first paragraph on page 4, lines 1-2, defendants deny that they engaged in unsafe practices, deny that they put plaintiff's life at risk, and deny that they violated the plaintiff's rights. As to the remaining allegations, defendants are without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, deny said allegations.

**THIRD**

11. Answering the allegations set forth in the second paragraph on page 4, lines 4-9, defendants deny that they put plaintiff's life at risk and deny that they violated the plaintiff's rights. As to the remaining allegations, defendants are without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, deny said allegations.

**FOURTH**

12. Answering the allegations set forth in the third and fourth paragraphs on page 4, lines 11-18, defendants deny that they engaged in unsafe practices, deny that they unreasonably put plaintiff's life at risk, and deny that they violated the plaintiff's rights. As to the remaining allegations, defendants are without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, deny said allegations.

**FIFTH**

13. Answering the allegations set forth in the first and second paragraphs on page 5, lines 2-6, defendants deny that they deprived the plaintiff of medically necessary medication or treatment and deny that they violated the plaintiff's rights. As to the remaining allegations, defendants are without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, deny said allegations.

**SIXTH**

14. Answering the allegations set forth in the third paragraph on page 5, lines 8-11, defendants deny that they failed to provide a reasonably clean facility and deny that they violated

1 the plaintiff's rights. As to the remaining allegations, defendants are without knowledge or  
2 information sufficient to form a belief as to the truth of those allegations and, on that basis, deny  
3 said allegations.

4 **SEVENTH**

5 15. Answering the allegations set forth in the fourth paragraph on page 5, lines 13-18,  
6 and the first paragraph on page 6, lines 1-2, defendants deny that the plaintiff was given less  
7 recreation time than he was entitled to receive, deny that he was treated inconsistent with house  
8 rules, deny that he was treated differently than other similarly situated residents, and deny that they  
9 violated the plaintiff's rights. As to the remaining allegations, defendants are without knowledge  
10 or information sufficient to form a belief as to the truth of those allegations and, on that basis, deny  
11 said allegations.

12 **EIGHTH**

13 16. Answering the allegations set forth in the second paragraph on page 6, lines 4-6,  
14 defendants admit that there were employment requirements for residents of Cornell's facility  
15 and that, under certain circumstances, there were ramifications when a resident failed to secure  
16 employment. As to the remaining allegations, defendants deny each and every allegation  
17 contained therein.

18 17. Answering the allegations set forth in the third paragraph on page 6, lines 7-14,  
19 defendants are without knowledge or information sufficient to form a belief as to the truth of those  
20 allegations and, on that basis, deny said allegations.

21 18. Answering the allegations set forth in the fourth paragraph on page 6, lines 15-19,  
22 defendants deny that the plaintiff was "punished," deny that he failed to receive the level of  
23 assistance he was entitled to receive, deny that he failed to receive the same assistance as other  
24 similarly situated inmates, and deny that they violated the plaintiff's rights. As to the remaining  
25 allegations, defendants are without knowledge or information sufficient to form a belief as to the  
26 truth of those allegations and, on that basis, deny said allegations.

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28 ///

**NINTH**

19. Answering the allegations set forth in the first paragraph on page 7, lines 2-6, defendants deny that they deprived the plaintiff of hygiene products he was entitled to maintain at Cornell's facility and deny that they violated the plaintiff's rights. As to the remaining allegations, defendants are without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, deny said allegations.

**TENTH**

20. Answering the allegations set forth in the second paragraph on page 7, lines 8-10, defendants deny that they treated the plaintiff in an arbitrary manner and deny that they violated the plaintiff's rights. As to the remaining allegations, defendants are without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, deny said allegations.

**RELIEF**

21. Answering the requests for relief set forth on page 7, lines 12-19, defendants deny each and every request contained therein.

**AFFIRMATIVE DEFENSES****FIRST – FAILURE TO STATE A CLAIM**

22. Defendants are informed and believe and thereon allege that the complaint, and each cause of action thereof, fails to state facts sufficient to constitute a cause of action against defendants.

**SECOND – PLAINTIFF'S COMPARATIVE FAULT**

23. Defendants are informed and believe and thereon allege that if the plaintiff was injured or damaged in the manner set forth in the complaint, he engaged in negligent, reckless, and/or intentional acts in and about said matters; that said conduct proximately caused and contributed to the incident and his claimed damages, and that the plaintiff should be barred from recovering those damages attributable to his proportionate share of fault pursuant to the doctrine of comparative negligence.

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**THIRD – COMPARATIVE FAULT OF OTHERS**

24. Defendants are informed and believe and thereon allege other persons and entities were responsible for the plaintiff's damages, if any there were, and defendants' liability, if any, should be reduced proportionate to their share of said liability.

**FOURTH – FAILURE TO MITIGATE DAMAGES**

25. Defendants are informed and believe and thereon allege that the plaintiff failed to take proper and reasonable steps to avoid or mitigate the damages alleged in the complaint, and any recovery by plaintiff must therefore be reduced to the extent of his failure to mitigate or avoid damages.

**FIFTH – STATUTE OF LIMITATIONS**

26. Defendants are informed and believe and thereon allege that the complaint, and each cause of action therein, is barred by the applicable statute of limitations.

**SIXTH – IMMUNITY OF DEFENDANTS CORNELL**

**AND OFFICIAL CAPACITY DEFENDANTS**

27. Defendants are informed and believe and thereon allege that if defendant Cornell Corrections of California, Inc., and any or all of the individually named defendants sued in their official capacity are found to have acted under color of law, said defendants are immune from federal and state civil rights actions, including, but not limited to, pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971).

**SEVENTH – IMMUNITY OF PERSONAL CAPACITY DEFENDANTS**

28. Defendants are informed and believe and thereon allege that if any or all of the individually named defendants sued in their personal capacity are found to have acted under color of law, said defendants are entitled to qualified immunity pursuant to federal and state law.

**EIGHTH – NO PUNITIVE DAMAGES AGAINST CORNELL**

29. Defendants are informed and believe and thereon allege that defendant Cornell Corrections of California, Inc., is immune from punitive damages pursuant to federal and state law.

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**NINTH – FAILURE TO STATE CLAIM FOR PUNITIVE DAMAGES**

30. Defendants are informed and believe and thereon allege that the complaint fails to state facts sufficient to constitute a claim for punitive damages.

**TENTH – NO EXCESSIVE FINES**

31. Defendants are informed and believe and thereon allege that the claim for punitive damages set forth in the complaint violates defendants' right to protection from excess fines as provided in the Eighth Amendment of the United States Constitution and further violates defendants' right to substantive due process as provided in the Fifth and Fourteenth Amendments of the United States Constitution and in the California Constitution.

**ELEVENTH – MOOT**

32. Defendants are informed and believe and thereon allege that the plaintiff's claims are moot.

**TWELFTH – KNOWN DEFENSES**

33. Defendants presently have insufficient knowledge or information on which to form a belief as to whether they may have additional as yet unstated defenses available. Defendants reserve the right to assert additional defenses in the event discovery indicates they would be appropriate.

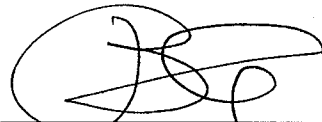
WHEREFORE, defendants pray for judgment as follows:

1. That plaintiff take nothing by way of his complaint and that judgment be entered in favor of defendants;
2. For attorney fee's and costs pursuant to 42 U.S.C. § 1988;
3. For costs of suit incurred herein; and
4. For such other and further relief as the Court deems just and proper.

DATED: September 12, 2007

LEWIS BRISBOIS BISGAARD & SMITH LLP

By



PEGGY S. DOYLE  
Attorneys for Defendants

**PROOF OF SERVICE***Rosenberg v. Cornell*

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I am employed in the County of San Francisco, State of California. I am over the age of 18 and not a party to the within action. My business address is One Sansome Street, Suite 1400, San Francisco, California 94104.

On September 12, 2007, I served the following document described as **DEFENDANT'S ANSWER TO PLAINTIFF'S FIRST AMENDED COMPLAINT AND DEMAND FOR JURY** on all interested parties in this action by placing ☒ a true copy ☐ the original thereof enclosed in sealed envelopes addressed as follows:

ROSENBERG, JORDAN 601 VAN NESS AVENUE #E3-219 SAN FRANCISCO, CA 94102	Pro per plaintiff
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☐ (BY FACSIMILE) The facsimile machine I used complied with Rule 2003(3) and no error was reported by the machine. Pursuant to Rule 2008(e)(4), I caused the machine to print a record of the transmission.

☒ (BY MAIL, 1013a, 2015.5 C.C.P.)

☐ I deposited such envelope in the mail at San Francisco, California. The envelope was mailed with postage thereon fully prepaid.

☒ I am readily familiar with the firm's practice for collection and processing correspondence for mailing. Under that practice, this document will be deposited with the U.S. Postal Service on this date with postage thereon fully prepaid at San Francisco, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☒ (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☐ (FEDERAL) I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on September 12, 2007, at San Francisco, California.

  
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Anna Villanueva